UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b) Borough of Point Pleasant Beach 416 New Jersey Avenue Point Pleasant Beach, NJ 08742 732-892-0435

In Re:

Darryl B. Monticello

Dba Cello Builders Inc.

Case No.:

16-25565-KCF

Chapter:

13

Hearing Date:

July 23, 2019

Judge:

Kaplan

### NOTICE OF MOTION FOR RELIEF FROM THE AUTOMATIC STAY

Borough of Point Pleasant Beach has filed papers with the court requesting relief from the automatic stay in order to initiate or resume an action in the state court of New Jersey to take lawful action to collect the debt, including but not limited to, the placement of a lien against the debtor's real property located at:

419 Arbutus Avenue Point Pleasant Beach, NJ 08742-3102

and to begin lawful foreclosure proceedings.

YOUR RIGHTS MAY BE AFFECTED. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one).

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If you do not want the court to grant this motion, or if you want the court to consider your views, you or your attorney must file with the clerk at the address listed below, a written response explaining your position no later than 7 days prior to the hearing date.

Hearing Date:

July 23, 2019

Hearing Time:

9:00 a.m.

Hearing Location:

402 East State Street

Trenton, N.J. 08608

Courtroom Number: #8

If you mail your response to the clerk for filing, you must mail it early enough so the court will receive it on or before 7 days prior to the hearing date.

You must also mail a copy of your response to:

Albert Russo Standing Chapter 13 Trustee CN 4853 Trenton, NJ 08650-4853

Sean D. Gertner, Esq. Gertner & Gertner, LLC PO Box 1149 Jackson, NJ 08527

If you, or your attorney, do not take the steps outlined above, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Date: 6-26-19

Sean D. Gertner, Esq. Attorney for Creditor

UNICASE 16,25565 KCFUPT POC 120RT Filed 06/27/19 Entered 06/27/19 09:30:15 Desc Main Page 3 of 19 Document DISTRICT OF NEW JERSEY Caption in Compliance with D.N.J. LBR 9004-1(b) Borough of Point Pleasant Beach 416 New Jersey Avenue Point Pleasant Beach, NJ 08742 732-892-0435 In Re: Case No.: 16-25565-KCF Darryl B. Monticello Chapter: 13 dba Cello Builders Inc. Hearing Date: July 23, 2019 Judge: Kaplan

### CERTIFICATION OF ATTORNEY FOR CREDITOR IN SUPPORT OF MOTION FOR RELIEF FROM THE AUTOMATIC STAY

I, Sean D. Gertner, Esq., attorney for the Creditor, Borough of Point Pleasant Beach, in the above captioned case, submit this Certification in support of the Motion for Relief from the Automatic Stay filed on June 27, 2019.

- 1. I am fully familiar with the debtor's payment history because I am the attorney for the Creditor, Borough of Point Pleasant Beach.
- 2. The property is located at: 419 Arbutus Avenue, Point Pleasant Beach, NJ 08742-3102
- 3. The debtor filed for bankruptcy on August 11, 2016.

Case 16-25565; KCEf fr Dooth 20 to Filed 96/27/19 ha Fintered 96/27/19 h

Document Page 4 of 19
Pleasant Beach, to initiate or resume an action in the state court of New Jersey to take lawful action to collect the debt, including but not limited to, the placement of a lien against the debtor's real property located at 1501 Bel Aire Court West, Point Pleasant, NJ 08742 and to begin lawful foreclosure proceedings.

5. The debtor's post-petition outstanding payments are as follows:

	Principal Balance Due
1 Sewer Charge	\$827.29, as of 4/16/2019
2 Water Charge	\$676.68, as of 4/16/2019

- 6. Post-petition, the debtor owes \$1,503.97, plus interest, for a total of \$1,957.32 (See proof of claim attached as **Exhibit A**, Amortization Schedule attached as **Exhibit B**, and Transaction listing attached as **Exhibit C**), as of April 16, 2019, which represents past due water and sewer charges.
- 7. The debtor's failure to pay these charges post-petition is cause for relief from the automatic stay.
- 8. Through this motion, I request relief from the automatic stay so I may initiate or continue an action in the state court to remove debtor from the rented premises.

I certify under penalty of perjury that the above is true.

Date: 6-76-14

Sean D. Gertner, Esq. Attorney for Creditor

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b) Borough of Point Pleasant Beach 416 New Jersey Avenue Point Pleasant Beach, NJ 08742 732-892-0435

In Re:

Darryl B. Monticello

dba Cello Builders Inc.

Case No.:

16-25565-KCF

Chapter:

13

Hearing Date:

July 23, 2019

Judge:

Kaplan

#### STATEMENT AS TO WHY NO BRIEF IS NECESSARY

In accordance with D.N.J. LBR 9013-1(a)(3), it is respectfully submitted that no brief is necessary in the court's consideration of this motion, as it does not involve complex issues of law.

Date: 6-26-19

Sean D. Gertner, Esq. Attorney for Creditor

Filed 06/27/19 Entered 06/27/19 09:30:15 Desc Main Page 6 of 19 Caption in Compliance with D.N.J. LBR 9004-1(b) Borough of Point Pleasant Beach 416 New Jersey Avenue Point Pleasant Beach, NJ 08742 732-892-0435 In Re: Case No.: 16-25565-KCF Darryl B. Monticello Chapter: 13 dba Cello Builders Inc. July 23, 2019 Hearing Date: Kaplan Judge: **CERTIFICATION OF SERVICE** I, Melissa Roth, am assistant to Sean D. Gertner, Esq., who represents Borough of Point Pleasant Beach, the Creditor in this matter. 1. On June 27, 2019 I sent a copy of the following pleadings and/or documents to the parties listed in the chart below: ☑ Notice of Motion for Relief from the Automatic Stay ☑ Certification of Attorney for Creditor in Support of Motion for Relief from the Automatic Stay ☑ Statement as to Why No Brief is Necessary

I certify under penalty of perjury that the above documents were sent using the mode of

Melissa Roth

☑ Proposed Order Granting Motion for Relief from the Stay

3.

Date:

service indicated.

6-27-19

Case 16-25565-KCF Doc 120 F Name and Address of Party Served	led 06/27/19 Entered cument Page 7 of 19 Party to the Case	06/27/19 09:30:15 Desc Main
Darryl B. Monticello	Debtor	☐ Hand-delivered
dba Cello Builders Inc.		☑ Regular mail
419 Arbutus Avenue		☐ Certified mail/Return receipt
Point Pleasant Beach, NJ 08742-3102		requested
		Other (As authorized by the court or rule. Cite the rule if applicable.)
Albert Russo	Chapter 13 Trustee	☐ Hand-delivered
Standing Chapter 13 Trustee		⊠ Regular mail
CN 4853		☐ Certified mail/Return receipt
Trenton, NJ 08650-4853		requested
		☐ Other
		(As authorized by the court or rule. Cite the rule if applicable.)

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b) Borough of Point Pleasant Beach 416 New Jersey Avenue Point Pleasant Beach, NJ 08742 732-892-0435

In Re:

Darryl B. Monticello

dba Cello Builders Inc.

Case No.:

16-25565-KCF

Chapter:

13

Hearing Date:

July 23, 2019

Judge:

Kaplan

#### ORDER GRANTING MOTION FOR RELIEF FROM THE STAY

The relief set forth on the following page is **ORDERED**.

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The Court having reviewed the movant's Motion for Relief from the Automatic Stay, and any related responses or objections, it is hereby

#### ORDERED that:

- 1. The automatic stay is vacated to permit the Creditor to initiate or resume an action in the state court of New Jersey to take lawful action to collect the debt, including but not limited to, the placement of a lien against the debtor's real property located at 1501 Bel Aire Court West, Point Pleasant, NJ 08742 and to begin lawful foreclosure proceedings.
- 2. The attorney for the Creditor shall serve a copy of this order on the debtor, debtor's attorney, if any, the Office of the U. S. Trustee and any trustee appointed in this case, and any other party who entered an appearance on the motion.

HONORABLE JUDGE MICHAEL B. KAPLAN UNITED STATES BANKRUPTCY JUDGE

# **EXHIBIT** A

Fill in this i	nformation to identify the case:
Debtor 1	Darryl B. Monticello
Dabtor 2 (Spouse, if fishing	(1)
United States	Bankreptcy Court for the: District of _New Jersey
Case number	16-25565-KCF

#### Official Form 410

#### **Proof of Claim**

04/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative exponse. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, involces, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be tined up to \$500,000, imprisoned for up to 5 years, or both, 18 U.S.C. §§ 152, 157, and 3571.

Fill In all the Information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 30%) that you received.

Part 1: Identify the	Claim						
1. Who is the current creditor?	Darryl B. Monticello Name of the current creditor (the person or antity to be paid for this claim) Other names the creditor used with the debtor Cello Builders						
Kas this claim been acquired from someone else?	a No □ Yes. Fram whom?						
3. Where should notices and payments to the creditor be sent?  Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent?  Pt Pleasant Beach Water Department  Name  416 New Jersey Ave  Number Street  Point Pleasant Beach NJ 08742  City State ZiP Code	Where should payments to the creditor be sent? (If different)  Name  Number Street  City State ZIP Code					
	Contact phone 732-892-7755  Contact errar						
4. Does this claim amend one already filed?	☑ No ☑ Yes. Claim number on court claims registry (if known) _	YYYY CO L MM					
5. Do you know if anyone else has filed a proof of claim for this claim?	M No     Yes Who made the earlier filling?						

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	Do you have any number you use to identify the debtor?	Ro List 4 digits of the debtor's account or any number you use to identify the debtor:					
7.	How much is the claim?	S1,957.32 , Does this amount include inforest or other charges?  I No  Yes. Altach statement itemizing interest, feas, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).					
	What is the basis of the claim?	Examples: Goods sold, money loaned, tease, services performed, personal injury of wrongful death, or credit card.					
		Attach reducted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c),					
		Elmit disclosing information that is entitled to privacy, such as health care information.					
		water sewer charges					
	s all or part of the claim secured?	No Die claim is secured by a lien on property.  Nature of property:					
		Reat estate. If the claim is secured by the debtor's principal residence, file a Mortgage Proof of Claim  Attachment (Official Form 410-A) with this Proof of Claim.  Motor vehicle  Other. Describe:					
		Basis for perfection:  Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, ilen, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)					
		Value of property: \$					
		Amount of the claim that is secured: \$					
		Amount of the claim that is unsecured: \$(The sum of the secured and unsecured amounts should match the amount in line 7.)					
		Amount necessary to cure any default as of the date of the petition:					
		Annual Interest Rate (when case was filed)%  ☐ Fixed ☐ Variable					
		Ø No					
ie	185 <del>0</del> 7	1 Yes. Amount necessary to cure any default as of the date of the patition.					
	ght of setoff?	☑ No ☐ Yes. Identify the property:					

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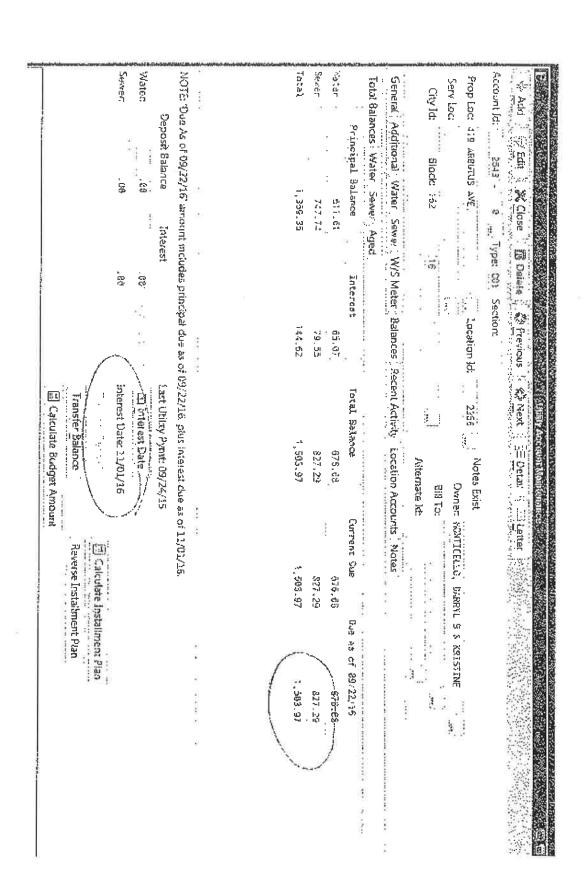
12, is all or part of the claim	□ No						
entitled to priority under 11 U.S.C. § 507(a)?	🗹 Yes. Check	Amount entitled to priority					
A claim may be partly priority and partly	Domesti 11 U.S.C	\$					
nonpriority. For example, in some categories, the law limits the amount entitled to priority.	Up to \$2 personal	,850° of deposits toward purchase, lease, or re , family, or household use, 11 U.S.C. § 507(a)	ental of property or (7).	services for	\$		
entiboo to priority.	bankrup	salaries, or commissions (up to \$12,850°) earn (cy potition is filed or the deblor's business end ). § 507(a)(4).	ed within 180 days Is, whichever is ear	s before the rlier.	\$		
	Taxes of	penalties owed to governmental units 11 U.\$	i.C. § 507(a)(8).		s1,957.32		
•	Contribu	tions to an employee benefit plan. 11 U.S.C. §	507(a)(5).		\$		
		pecify subsection of 11 U.S.C. § 507(a)() the			S		
1		re subject to adjustment on 4/01/19 and every 3 years		beaun on or alle	or the date of adjustment		
	Alliodis d.	Commence and a series and a ser					
Part 3: Sign Below							
The person completing	Check the approp	oriale box:		2230770300-1			
this proof of claim must sign and date it.	am the cree	ditor.					
FRBP 9011(5).	🗹 Tam the cree						
(f you file this claim electronically, FRBP	am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.						
5005(a)(2) authorizes courts to establish local rules	■ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.						
specifying what a signature is.	understand that	an authorized signature on this <i>Proof of Claim</i> Im, the creditor gave the deblor credit for any ;	i serveş as an ackr payments received	rowledgment t Loward the de	hat when calculating the		
A person who files a	I have examined the information in this Proof of Claim and have a resconable bolief that the information is true						
fraudulent claim could be fined up to \$500,000, Imprisoned for up to \$	i have examined and correct.	the information in this <i>Proof</i> of <i>Claim</i> and have	i 9 LA82019DIS DON	at that the into	rmation is true		
years, or both. 18 U.S.C. §§ 152, 157, and	í declare under p	enalty of perjury that the foregoing is true and	correct.				
3571.	Executed on date	09/20/2016 MM 7 05 7 YYYY					
		* 0#					
	CACI-VII Signature	Hellegio					
	D-1-44b	of the person who is completing and signing	n shio claim:				
	Little fine Handa r	o tifa harson ann is combarms and signing	g ima viani.				
	Name	Jennifor		Coyne Last name			
		First state Middle state Tax Collector		Paprilaire			
	Title				100 PT 100 PT 200 PT 100 PT 10		
	Company	The Borough of Point Pleasant Bea sidecilly the corporate services as the company if the		g şervicet.			
	Address	416 New Jersey Ave					
; ; !		Number Street		405.10	F		
		Point Pleasant Beach	NJ State	08742 ZIF Codo	OCCUP 1 17 17 17 18 1		
		City	State		aiotheach ara		
	Contact phone	732-892-0435	Emeil	ICOAUG(C)	ointbeach.org		

September 12, 2016 10:20 AM

POINT PLEASANT BEACH BOROUGK Special Charges Amostization Schedule

Page No: 1

Account Id: 250 £000 Date: 11/01/3 Interest Raie: 18.00 Pay Frequency: Monthly	Name:	1,503.97 MONTICELLO, DARRYE		Property Location: Block/Lot/Qual:	
Install # Due Date I 11/01/16 2 12/01/16	Payment Amount 54.37 54.37	Principal 31.81 32.29	Interest 22.56 22.08	Principal Balance 1,472.16 1,439.87	
2016 Totals	108.74	64.10	44.64		
3 01/01/17 4 02/01/17 5 03/01/17 6 04/01/17 7 05/01/17 8 06/01/17 9 07/01/17 10 08/01/17 11 09/01/17 12 10/01/17 13 11/01/17	54.37 54.37 54.37 54.37 54.37 54.37 54.37 54.37 54.37	32.77 33.26 33.76 34.27 34.78 35.30 35.83 36.37 36.92 37.47 38.03	21.60 21.11 20.61 20.10 19.59 19.07 18.54 18.00 17.45 16.90 16.34	1,407.10 1,373.84 1,340.08 1,305.81 1,271.03 1,235.73 1,199.90 1,163.53 1,126.61 1,089.14 1,051.11	
14 12/01/17 2017 Totals	54,37 652,44	38,60 427,36	15.77 225.08	1,012.51	
15 01/01/18 16 02/01/18 17 03/01/18 18 04/01/16 19 05/01/18 20 06/01/18 21 07/01/18 22 08/01/18 23 09/03/18 24 10/03/18 25 11/01/18 26 12/01/18 2018 Totals  27 01/01/19 29 03/01/19 30 04/01/19 31 05/01/19 32 06/01/19	54.37 54.37 54.37 54.37 54.37 54.37 54.37 54.37 54.37 54.37 54.37 54.37 54.37 54.37 54.37	39.18 39.77 40.37 40.97 41.59 42.21 42.84 43.49 44.14 44.80 45.47 46.15 510.98 46.85 47.55 48.99 49.72 50.47	15.19 14.60 14.00 13.40 12.78 12.16 11.53 10.88 10.23 9.57 8.90 8.22 141.46 7.52 6.82 6.11 5.38 4.65 1.90	973.33 933.56 893.19 852.22 810.63 768.42 725.58 682.09 637.95 593.15 547.68 501.53 454.68 407.13 358.87 309.88 260.16 209.69	
33 07/01/19 34 08/01/19 35 09/01/19 36 10/01/19 2019 Totals	54.37 54.37 54.37 54.37 54.37	51,22 51,99 52,77 53,71	3.15 2.38 1.60 0.66	158,47 106,48 53,71 0,00	
Total	1,957.32	1,503.97	453,35	0.00	



# EXHIBIT B

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Desc Main

April 1, 2019 03:17 PM

DARHMERANT BEAR AGE 17 of 19 Special Charges Amortization Schedule

Page No: 1

Account Id:	2543	Balance	Type:	Water
-------------	------	---------	-------	-------

Loan Date: 09/01/16
Interest Rate: 18.00

Loan Amount: 1,503.97

Interest Rate: 18.00 Pay Frequency: Monthly		MONTICELLO, DARRYL 419 ARBUTUS AVE PT PLEASANT BCH NJ		Property Location: Block/Lot/Qual:	
Install # Due Date P 1 09/01/16 2 10/01/16 3 11/01/16 4 12/01/16	Payment Amount 54.37 54.37 54.37 54.37	Principal 31.81 32.29 32.77 33.26	Interest 22.56 22.08 21.60 21.11	1,407.10	
2016 Totals	217.48	130.13	87.35		
5 01/01/17 6 02/01/17 7 03/01/17 8 04/01/17 9 05/01/17 10 06/01/17 11 07/01/17 12 08/01/17 13 09/01/17 14 10/01/17 15 11/01/17	54.37 54.37 54.37 54.37 54.37 54.37 54.37 54.37 54.37	33.76 34.27 34.78 35.30 35.83 36.37 36.92 37.47 38.03 38.60 39.18	20.61 20.10 19.59 19.07 18.54 18.00 17.45 16.90 16.34 15.77	1,235.73 1,199.90 1,163.53 1,126.61 1,089.14 1,051.11 1,012.51	
16 12/01/17	54.37	39.77	14.60		
2017 Totals	652.44	440.28	212.16		
17 01/01/18 18 02/01/18 19 03/01/18 20 04/01/18 21 05/01/18 22 06/01/18 23 07/01/18 24 08/01/18 25 09/01/18 26 10/01/18 27 11/01/18 28 12/01/18	54.37 54.37 54.37 54.37 54.37 54.37 54.37 54.37 54.37	40.37 40.97 41.59 42.21 42.84 43.49 44.14 44.80 45.47 46.15 46.85 47.55	14.00 13.40 12.78 12.16 11.53 10.88 10.23 9.57 8.90 8.22 7.52 6.82	810.63 768.42 725.58 682.09 637.95 593.15	
2018 Totals	652.44	526.43	126.01		
29 01/01/19 30 02/01/19 31 03/01/19 32 04/01/19 33 05/01/19 34 06/01/19 35 07/01/19 36 08/01/19	54.37 54.37 54.37 54.37 54.37 54.37 54.37	48.26 48.99 49.72 50.47 51.22 51.99 52.77 53.71	6.11 5.38 4.65 3.90 3.15 2.38 1.60 0.66	358.87 309.88 260.16 209.69 158.47 106.48 53.71 0.00	
2019 Totals	434.96	407.13	27.83		
Tota]	1,957.32	1,503.97	453.35	0.00	

# EXHIBIT C

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April 1, 2019 03:18 PM

Programment BEAR age ut 9 of 19
Special Charges Detail Inquiry

Page No: 1

Account Td:	2543	Block/Lot/Oual:	162.	16	Type: Water

Starting D			Ending	Date: 04/01/	19	Loan Amount	: 1,503.97	
Trans Date	Trans Type Insta Check No Description	ll No.	Code	Principal	Install Interest	Interest	Prin Balance	Batch Id
					OPENIN	G BALANCE	1,503.97	
09/01/16	Installment	1		31.81	22.56	0.00	1,503.97	
10/01/16	Installment	2		32.29	22.08	0.00	1,503.97	
11/01/16	Installment	3		32.77	21.60	0.00	1,503.97	
12/01/16	Installment	4		33.26	21.11	0.00	1,503.97	
01/01/17	Installment	5		33.76	20.61	0.00	1,503.97	
02/01/17	Installment	6		34.27	20.10	0.00	1,503.97	
03/01/17	Installment	7		34.78	19.59	0.00	1,503.97	
04/01/17	Installment	8		35.30	19.07	000	1,503.97	
05/01/17	Installment	9		35.83	18.54	0.00	1,503.97	
06/01/17	Installment	10		36.37	18.00	0.00	1,503.97	
07/01/17	Installment	11		36.92	17.45	0.00	1,503.97	
08/01/17	Installment	12		37 . 47	16.90	0.00	1,503.97	
09/01/17	Installment	13		38.03	16.34	0.00	1,503.97	
10/01/17	Installment	14		38.60	15.77	0.00	1,503.97	
11/01/17	Installment	15		39.18	15.19	0.00	1,503.97	
12/01/17	Installment	16		39.77	14.60	0.00	1,503.97	
01/01/18	Installment	17		40.37	14.00	0.00	1,503.97	
02/01/18	Installment	18		40.97	13.40	0.00	1,503.97	
03/01/18	Installment	19		41.59	12.78	0.00	1,503.97	
03/07/18	Payment	1	056	31.81	22.56	0.00	1,472.16	JC
	1st pyt fr trustee							
03/07/18	Payment	2	056	32.29	22.08	0.00	1,439.87	JC
	1st pyt fr trustee							
03/07/18	Payment	3	056	32.77	21.60	0.00	1,407.10	JC
	1st pyt fr trustee							
03/07/18	Payment	4	056	33.26	21.11	0.00	1,373.84	JC
	1st pyt fr trustee							
03/07/18	Payment	5	056	22.70	20.61	0.00	1,351.14	JC
	1st pyt fr trustee							
04/01/18	Installment	20		42.21	12.16	0.00	1,351.14	
05/01/18	Installment	21		42.84	11.53	0.00	1,351.14	
06/01/18	Installment	22		43.49	10.88	0.00	1,351.14	
07/01/18	Installment	23		44.14	10.23	0.00	1,351.14	
08/01/18	Installment	24		44.80	9.57	0.00	1,351.14	
09/01/18	Installment	25		45.47	8.90	0.00	1,351.14	
10/01/18	Installment	26		46.15	8.22	0.00	1,351.14	
11/01/18	Installment	27		46.85	7.52	0.00	1,351.14	
12/01/18	Installment	28		47.55	6.82	0.00	1,351.14	
01/01/19	Installment	29		48.26	6.11	0.00	1,351.14	
02/01/19	Installment	30		48.99	5.38	0.00	1,351.14	
03/01/19	Installment	31		49.72	4.65	0.00	1,351.14	
04/01/19	Installment	32		50.47	3.90	0.00	1,351.14	